

REMARKS/ARGUMENTS

Claims 1-10 are pending in the present application.

The claims stand rejected under 35 U.S.C. 102(a) over Kasibhatla, et al. Applicants note that the Kasibhatla, et al reference is Applicants own work and thus cannot be prior art under 35 U.S.C. 102(a) nor any other section of 35 U.S.C. 102. In support of this assertion, Applicants provide herewith, in counterparts, an executed Declaration which indicates that those co-authors named in the Kasibhatla, et al reference that are also co-inventors on the present application were the inventors of the subject matter disclosed in that report and corresponding to the information to the present application. The other named co-authors, Mr. Kasibhatla and Mr. Flowers, were working under the direction and supervision of the inventors and while being co-authors of the publication are not co-inventors of the subject matter described therein or in the present application.¹

The other named co-inventor of the present application, Yves Pommier, is a co-inventor of an embodiment of the present invention which is not described in the prior paper and thus he was not named as a co-author.

Applicants further note that the named co-inventor Monroe Wall passed away since the filing of the present application and thus the Declaration has been completed by Michael Wall, his Estate Administrator.

Since the Kasibhatla, et al reference is thus not available as prior art under section 35 U.S.C. 102(a) nor any other section of 35 U.S.C. 102, the rejection should be withdrawn, leaving no rejections remaining in the present application.

Applicants note that the Information Disclosure Statement filed October 15, 2002 provided a copy of the written opinion in the corresponding PCT application. That written

¹ Applicants note that this Declaration is in accordance with the holdings in *In re Katz*, 215 USPQ 14 (CCPA 1982), a copy of which is attached hereto.

Application No. 09/712,912
Reply to Office Action of

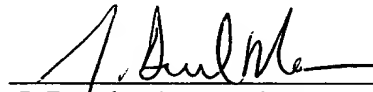
opinion cited only one reference against the claims in the PCT application, that being Miyasaka, et al. U.S. Patent 4,399,282. Applicants note that this reference has been considered by the Examiner as indicated in the initialed 1449 provided with the present Office Action.

Applicants also provide herewith a Petition to Make Special and Applicants Statement signed by Dr. Wani, one of the co-inventors in the present application. The Petition to Make Special is on the basis that Dr. Wani is over 65 years old. Accordingly, granting of that petition is respectfully requested.

Applicants submit that the application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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